

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office

January 30, 1997 LR 26

well established principle in our system of government, I believe going back to our ancestors, came from the British system, that individuals ought not be imprisoned for nonpayment of debt for civil debt. That provision is currently in our constitution, Article I, Section 20. There is currently an exception to that that says "unless in cases of fraud". An interpretation of our current language would mean that you could not be imprisoned for debt, nonpayment of debt, unless that debt was somehow incurred through your committing fraud. It is the recommendation of the Constitutional Revision Commission that that language "unless in cases of fraud" be stricken from the constitution. That does not mean that you are now free to commit fraud and incur debt, that obviously is a criminal violation, as handled under our criminal statutes. But this exception from the general principle of not imprisoning people for debt, we can imprison people if they conduct...if they commit fraud, but we should not imprison them because they have incurred a debt. We are suggesting that these five words, "unless in cases of fraud", be eliminated from our state Constitution, Article I, Section 20. A fairly simple concept, I won't go into it any further, unless there are a lot of questions.

PRESIDENT ROBAK: Thank you, Senator Withem. Senator Chambers.

SENATOR CHAMBERS: Madam President, members of the Legislature, as a member of the Judiciary Committee, I was there and heard this bill. And I was somewhat distracted, Senator Withem, but I believe that Senator Withem may have touched on it, but in the case of fraud there already are criminal laws that relate to punishing a person in a criminal manner, namely by fine or incarceration for committing fraud. So there is no reason, in a civil setting, to allow imprisonment for fraud. It's an anachronism, it's an old thing that does not need to be there anymore. So by removing it from the constitution, it does not remove a right from a person who has been defrauded to seek a civil recovery of that which was taken from them unlawfully, nor does it do away with the existence in the criminal law of a means by which to punish that person for the crime that they committed. So this is one of those provisions that could literally be called a cleanup item and I am in support of it.